**unit three**

**D e c l i n e o f P a r l i a m e n t T h e s i s**

definitions

*decline of parliament thesis:* the argument that the modern parliament is unable to perform its major roles because of the rise of disciplined political parties and the dominance of the executive over the lower house, the house in which it is formed and to which it is theoretically responsible

*representation:* elected representatives should act in the interests of their constituents

*legislative:* making statute laws

*responsibility:* executive should be drawn from and accountable to parliament

*debate:* discussion of issues for diverse and reflective laws and for holding gov accountable

representation function

*in theory*

delegate representation - act as mouthpiece for electorate with little bias or personal views

trustee representations - make best judgements for electorate and held accountable at elections

sovereign state interests - represent the best interests of the state

*in practice*

partisanship - members vote along party lines (labor mps forced to), crossing the floor is seen a disloyal and could have negative career impacts

mirror representation - senate is more diverse and mirrors societal demographics, more likely for minor and micro parties and independents to win a seat

*therefore;* has declined due to partisanship and lack of representation in the house of reps

legislative function

*in theory*

scrutiny - laws are heavily scrutinised

diversity - there is diverse input and bills can be initiated by any member

debate - follows statutory process in which all members may debate

senate - the senate acts as a house of review and the impact of the bill is emphasised

*in practice*

government bills - exec introduces bills through the house selection committee (92% in 2015)

speed - parliament can rush bills through the house (migration act loopholes 2015)

gagging - second reading of a debate is gagged (abcc debate 2013)

guillotining - debate time is limited

floodgating - introducing many bills at once to overwhelm the statutory process

*therefore;* has declined due to lack of private members’ bills, and executive dominance forcing the passage of government bills

debate function

*in theory*

opportunities - many debate opportunities such as second reading & question time

parliamentary privilege - enhanced form of free speech allows for expression of opinions

*in practice*

restrictions - debate time can be restricted by extending government business

gagging and guillotining - debate time limited

media - some debate is to look good for the media

senate - more diverse and allows for better debate

party rooms - gov’s backbenchers can hold them to account (2018 leadership crisis)

*therefore;* has declined due to gagging and guillotining and lack of diversity in lower house

responsibility function

*in theory*

support - government should retain lower house support, dismissable by a vote of no confidence

censure - censure motions holds ministers to account for their actions

question time - ministers must answer questions truthfully or be censured

spending - gov spending is scrutinised for lawfulness e.g. budget

committees - powerful investigative capability and can inquire into use of exec power

*in practice*

no confidence - gov controls lower house so there is almost never a loss of support, there has never been a formal no confidence vote (informal vote in 1941 fadden gov)

censure - motions almost never successful against members of the government except in the senate (2015 censure of george brandis moved by penny wong)

minority - function is revived in minority governments that require the support of minor parties and independents to retain government (gillard 2010-2013)

*therefore;* has declined due to gov majority in the lower house and ability to create standing orders that may theoretically undermine collective and individual ministerial responsibility

good governance

*accountability*

* lower house can still highlight major issues with legislation and conduct debates
* government must negotiate with the opposition or cross-bench senators from minor and micro parties and independent senators who hold the balance of power in the senate

⤷ in 2014, the senate effectively held the abbott government to account for its 2013 election promises by refusing to pass significant parts of the 2014 budget. major proposals such as the $7 gp co-payment, the higher education scheme, paid parental leave, pharmaceutical co-payment as well as the abcc bills were not passed or were amended by the senate

*transparency*

* cabinet is constantly scrutinised by the opposition and other parties
* powerful senate committees conduct twice-yearly senate estimates hearings into the affairs of the executive – both the political executive (cabinet) and the public service
* those called before senate estimates must answer truthfully and public servants are covered by parliamentary privilege

*rule of law*

* the constitution and acts of parliament both bind the executive
* executive is responsible for initiating much of the legislation enacted into acts of parliament but these bills must pass an independent senate before they become statute laws

⤷ plaintiff m70/2011 v minister for immigration and citizenship

the gillard government’s 2011 asylum seeker policy (the malaysia solution) was ruled unlawful by the high court as the decision of the minister who made the agreement, using executive power delegated to him through the migration act 1958, did not comply with the requirements of the act – therefore constraining the government’s policy

options

*responsive*

* parliament is the only directly elected institution with a relatively short election cycle which keeps it responsible
* the executive must respond to community concerns raised through its own party members
* exec hears concerns through debates and questions raised by non-government members
* if members are lobbied by constituents they can raise concerns directly with ministers

*equitable and inclusive*

* a powerful senate means that executive bills must pass a range of community views reflected in that chamber before becoming law thus ensuring a degree of inclusivity
* the parliamentary joint committee on human rights scrutinises bills for human rights compliance

*efficient and effective*

* usually executives are majority government this means they are generally stable and highly unlikely to fall to votes of no confidence
* preferential system of voting ensures clear majorities in the house
* early in a government’s term it can usually claim a majoritarian mandate form the people

summary

*in favour*

* executive dominance is clearly a defining and limiting characteristic of the Australian system of parliamentary government
* none of the theoretical functions of the commonwealth parliament operate properly in reality
* compared to britain’s parliament, the commonwealth fails to live up to the historical and contemporary westminster parliamentary ideals

*against*

* the senate is a powerful chamber when it is independent of the government
* it is also reflective of community diversity
* the commonwealth parliament in practice maintains the principles of ‘good government’
* the commonwealth parliament is a uniquely australian institution and is only partially westminster. it has non-westminster characteristics meaning it should be judged on its own terms and not compared to the ideal
* australia has a fairly young political system

quizlet for definitions, cases, and examples

<https://quizlet.com/_741nwi>

example essay structure

introduction - introduce decline of parliament thesis, key ideas, strong thesis with argument

paragraph 1 - representative function in theory, in practice, and decline

paragraph 2 - legislative function in theory, in practice, and decline

paragraph 3 - responsibility function in theory, in practice, and decline

paragraph 4 - debate function in theory, in practice, and decline

paragraph 5 - evaluate and good governance

conclusion - restate arguments and strong thesis

practice essay questions

assess the claim that the ‘decline of parliament thesis’ does not apply to the commonwealth parliament. {25 marks}

“if not for the role and power of the senate, the commonwealth parliament would not fulfil its functions.” evaluate this claim with reference to at least three functions. {25 marks}